

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

State of Minnesota; Olmsted County
District Court; Olmsted County Attorney's
Office; Olmsted County Sheriff Department;
City of Rochester Police Department; State
of Minnesota, any or all instrumentalities,
including any real parties of interest that are
principals to the State of Minnesota,

Civil No. 05-2392 (DWF/AJB)

Plaintiffs,

v.

ORDER AND MEMORANDUM

Hillmar-Ivan Bittner, one of the
registered lineal descendants of the
Pembina Nation-Little Shell Band of N.A.,

Defendant.

State of Minnesota, *Pro Se*; Olmsted County District Court, *Pro Se*; Olmsted County Attorney's
Office, *Pro Se*; Olmsted County Sheriff Department, *Pro Se*; City of Rochester Police Department,
Pro Se, Plaintiffs.

Hillmar-Ivan Bittner, *Pro Se*, Defendant.

This matter is before the Court upon Defendant's objections and his notice of rebuttal to
Magistrate Judge Janie S. Mayeron's Report and Recommendation dated October 25, 2005,
recommending that: (1) Defendant's application for leave to proceed *in forma pauperis* be denied;
(2) Defendant's "Notice of Removal" be vacated; and (3) this matter be remanded to the State District
Court for Olmsted County, Minnesota.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.1(c). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Defendant Hillmar-Ivan Bittner's objections (Doc. No. 5) to Magistrate Judge Janie S. Mayeron's Report and Recommendation dated October 25, 2005, are **DENIED**.
2. Magistrate Judge Janie S. Mayeron's Report and Recommendation dated October 25, 2005 (Doc. No. 4), is **ADOPTED**.
3. Defendant Hillmar-Ivan Bittner's application for leave to proceed *in forma pauperis* (Doc. No. 2) is **DENIED**.
4. Defendant Hillmar-Ivan Bittner's "Notice Of Removal" (Doc. No. 1) is **VACATED**.
5. This matter is remanded to the State District Court for Olmsted County, Minnesota.

Dated: November 14, 2005

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court

MEMORANDUM

The Court has reviewed all submissions of the Defendant, including his Notice of Rebuttal and the self-styled document entitled "Questionnaire/Response form for Magistrate Mayeron to complete and to return to Hillmar-Ivan Bittner."

The Court is unaware as to whether Magistrate Judge Mayeron filled out the questionnaire, but the undersigned has respectfully declined to do so.

Based upon the presentations of the parties, including all submissions by the Defendant; the Court having reviewed the Court's file in this matter and being otherwise duly advised in the premises; the Court, as noted above, denied the objections put forth by the Defendant and adopted Magistrate Judge Janie S. Mayeron's Report and Recommendation dated October 25, 2005. Consequently, this matter is remanded to the State District Court for Olmsted County.

D.W.F.